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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,784	10/19/2001	Yakov Kamen	ISURFTV147	5676
52940	7590	05/01/2006	EXAMINER	
TODD S. PARKHURST HOLLAND & KNIGHT LLP 131 S. DEARBORN STREET 30TH FLOOR CHICAGO, IL 60603			CHANG, SHIRLEY	
			ART UNIT	PAPER NUMBER
			2623	
DATE MAILED: 05/01/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/029,784	KAMEN, YAKOV	
	Examiner	Art Unit	
	Shirley Chang	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 2, 8, and 14 have been considered but are moot in view of the new ground(s) of rejection.

a. Applicant argues on page 6, third paragraph that Bates does not disclose 'removing from the first set of broadcasted programs a third set of broadcasted programs, the third set of broadcasted programs including broadcasted programs not viewed by a viewer for a period of time at least equal to a second threshold.'

Bates indeed discloses 'removing from the first set of broadcasted programs a third set of broadcasted programs, the third set of broadcasted programs including broadcasted programs not viewed by a viewer for a period of time at least equal to a second threshold.' Programs having the lowest counts based on criteria such as accumulated viewing time are removed. The programs have the lowest counts because they are viewed less than the other programs (col. 8, lines 19-33).

b. Applicant argues on page 7, first paragraph that Bates does not disclose 'viewer indicating dissatisfaction.'

Bates indeed discloses 'viewer indicating dissatisfaction.' During a state of dissatisfaction, the user is not satisfied with the program and does not view the program pass a predetermined threshold, and further does not deem the program to be a favorite (col. 8, lines 1-5)

c. Applicant argues on page 7, second paragraph that Bates does not disclose 'updating any threshold.'

Bates indeed discloses 'updating a threshold.' The threshold can be set at different levels to increase or decrease the length of time that an user has to view a program before it is automatically determined to be a favorite of the user (col. 7, line 60 to col. 8, line 5).

d. Applicant argues on page 7, third paragraph that Bates does not disclose 'a fourth, fifth or sixth set of programs or their corresponding thresholds.'

Bates indeed discloses 'a fourth, fifth or sixth set of programs or their corresponding thresholds.' As to the existence of the fourth, fifth or sixth set and their corresponding thresholds, the process of figure 6 is iterative, and hence do not 'relate to the original sets of thresholds' as claimed by applicant.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section

351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claim(s) 1-18 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Bates et al. (6721953).

As to claims 1, 7, and 13, Bates discloses:

A system which implements a method, a computer readable medium and corresponding system comprising: a first unit to add to a first set of broadcasted programs a second set of broadcasted programs, the second set of broadcasted programs including broadcasted programs viewed by a viewer for a period of time at least equal to a first threshold (a first computational "unit" adds the programs based upon a program viewed for a period of time; there exists a 'first set' since block 142 determines whether 'one or more records already exist in the favorite program table matching the current program information for the program currently being viewed' col. 7, line 60 to col. 8, line 5);

a second unit coupled with the first unit to remove from the first set of broadcasted programs a third set of broadcasted programs, the third set of broadcasted programs including broadcasted programs not viewed by a viewer for a period of time at least equal to a second threshold (a second computational "unit" removes the programs entries with lowest counts are removed based on 'other criteria (e.g., accumulated viewing time)' so as to maintain a fixed number of counts col. 8, lines 19-33).

As to claims 2, 8, and 14, Bates discloses:

wherein the first unit is further to add to the first set of broadcasted programs a fourth set of broadcasted programs manually selected by the viewer (the programs are 'manually selected by the viewer' by depressing an execute or the like button on a remote controller (col. 11, line 55 to col. 12, line 11); by watching a channel past a threshold, the user is effectively "selecting" a program to be added as a "favorite" col. 7, line 60 to col. 8, line 5).

As to claims 3, 9, and 15, Bates discloses:

the first unit is further to update the first threshold and the second threshold upon the viewer indicating dissatisfaction (Increasing or decreasing the length of time a user has to view a program before it is automatically determined to be a favorite impacts the first and second threshold; by changing the threshold, an updated or new criteria can change the criteria by which a program is added upon viewer dissatisfaction.

Furthermore, altering the threshold effectively determines which programs shall be removed, should there be a 'fixed maximum size' for the program table col. 8, lines 1-5).

As to claim 4, 10, and 16, Bates discloses:

the first unit is further to update the first threshold and the second threshold upon the viewer returning to a schedule list more than a predetermined number of times (when a

viewer selects a channel through the schedule list, col. 11, line 55 to col. 12, line 10 a channel can be viewed past a designated threshold, whereby the user is effectively “selecting” a program to be added or updated as a “favorite” col. 7, line 60 to col. 8, line 5).

As to claim 5, 11, and 17, Bates discloses:

the first unit is further to set the first threshold to be a first percentage of a period of time that a channel was viewed, and to set the second threshold to be a second percentage of the period of time that the channel was viewed (since table 50 may be kept at a fixed size, and lowest counts can be deleted, then the threshold is effectively a percentage. For example, if the lowest entry is to be removed, anything viewed less than 100 percent of the second to lowest entry would be removed col. 8, lines 19-33).

As to claim 6, 12, and 18, Bates discloses:

the first unit is further to add to the first set of broadcasted programs a fifth set of broadcasted programs, the fifth set of broadcasted programs including broadcasted programs selected by a viewer a number of times at least equal to a third threshold (col. 7, line 60 to col. 8, line 5; additional time/viewing time col. 8, lines 19-33 and col. 7, line 60 to col. 8, line 5 can in conjunction, be the threshold by which to add/remove programs);

wherein the second unit is further to remove from the first set of broadcasted programs a sixth set of broadcasted programs, the sixth set of broadcasted programs including broadcasted programs not selected by a viewer a number of times at least equal to a fourth threshold (entries with lowest counts are removed col. 8, lines 19-33; additional time/viewing time col. 8, lines 19-33 and col. 7, line 60 to col. 8, line 5 can in conjunction, be the threshold by which to add/remove programs).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shirley Chang whose telephone number is (571) 272-8546. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SC



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